

Union Calendar No. 352

111TH CONGRESS
2^D SESSION

H. R. 1745

[Report No. 111-607]

To amend the Public Health Service Act to provide liability protections for volunteer practitioners at health centers under section 330 of such Act.

IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2009

Mr. TIM MURPHY of Pennsylvania (for himself and Mr. GENE GREEN of Texas) introduced the following bill; which was referred to the Committee on Energy and Commerce

SEPTEMBER 16, 2010

Additional sponsors: Mr. FORTENBERRY and Mr. GINGREY of Georgia

SEPTEMBER 16, 2010

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on March 26, 2009]

A BILL

To amend the Public Health Service Act to provide liability protections for volunteer practitioners at health centers under section 330 of such Act.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Family Health Care*
 5 *Accessibility Act of 2010”.*

6 **SEC. 2. LIABILITY PROTECTIONS FOR HEALTH PROFES-**
 7 **SIONAL VOLUNTEERS AT COMMUNITY**
 8 **HEALTH CENTERS.**

9 *Section 224 of the Public Health Service Act (42*
 10 *U.S.C. 233) is amended by adding at the end the following:*

11 *“(q)(1) For purposes of this section, a health profes-*
 12 *sional volunteer at an entity described in subsection (g)(4)*
 13 *shall, in providing a health professional service eligible for*
 14 *funding under section 330 to an individual, be deemed to*
 15 *be an employee of the Public Health Service for a calendar*
 16 *year that begins during a fiscal year for which a transfer*
 17 *was made under paragraph (4)(C). The preceding sentence*
 18 *is subject to the provisions of this subsection.*

19 *“(2) In providing a health service to an individual,*
 20 *a health care practitioner shall for purposes of this sub-*
 21 *section be considered to be a health professional volunteer*
 22 *at an entity described in subsection (g)(4) if the following*
 23 *conditions are met:*

24 *“(A) The service is provided to the individual at*
 25 *the facilities of an entity described in subsection*

1 (g)(4), or through offsite programs or events carried
2 out by the entity.

3 “(B) The entity is sponsoring the health care
4 practitioner pursuant to paragraph (3)(B).

5 “(C) The health care practitioner does not receive
6 any compensation for the service from the individual
7 or from any third-party payer (including reimburse-
8 ment under any insurance policy or health plan, or
9 under any Federal or State health benefits program),
10 except that the health care practitioner may receive
11 repayment from the entity described in subsection
12 (g)(4) for reasonable expenses incurred by the health
13 care practitioner in the provision of the service to the
14 individual.

15 “(D) Before the service is provided, the health
16 care practitioner or the entity described in subsection
17 (g)(4) posts a clear and conspicuous notice at the site
18 where the service is provided of the extent to which the
19 legal liability of the health care practitioner is lim-
20 ited pursuant to this subsection.

21 “(E) At the time the service is provided, the
22 health care practitioner is licensed or certified in ac-
23 cordance with applicable law regarding the provision
24 of the service.

1 “(3) Subsection (g) (other than paragraphs (3) and
2 (5)) and subsections (h), (i), and (l) apply to a health care
3 practitioner for purposes of this subsection to the same ex-
4 tent and in the same manner as such subsections apply to
5 an officer, governing board member, employee, or contractor
6 of an entity described in subsection (g)(4), subject to para-
7 graph (4) and subject to the following:

8 “(A) The first sentence of paragraph (1) applies
9 in lieu of the first sentence of subsection (g)(1)(A).

10 “(B) With respect to an entity described in sub-
11 section (g)(4), a health care practitioner is not a
12 health professional volunteer at such entity unless the
13 entity sponsors the health care practitioner. For pur-
14 poses of this subsection, the entity shall be considered
15 to be sponsoring the health care practitioner if—

16 “(i) with respect to the health care practi-
17 tioner, the entity submits to the Secretary an ap-
18 plication meeting the requirements of subsection
19 (g)(1)(D); and

20 “(ii) the Secretary, pursuant to subsection
21 (g)(1)(E), determines that the health care practi-
22 tioner is deemed to be an employee of the Public
23 Health Service.

24 “(C) In the case of a health care practitioner
25 who is determined by the Secretary pursuant to sub-

1 *section (g)(1)(E) to be a health professional volunteer*
2 *at such entity, this subsection applies to the health*
3 *care practitioner (with respect to services performed*
4 *on behalf of the entity sponsoring the health care*
5 *practitioner pursuant to subparagraph (B)) for any*
6 *cause of action arising from an act or omission of the*
7 *health care practitioner occurring on or after the date*
8 *on which the Secretary makes such determination.*

9 *“(D) Subsection (g)(1)(F) applies to a health*
10 *care practitioner for purposes of this subsection only*
11 *to the extent that, in providing health services to an*
12 *individual, each of the conditions specified in para-*
13 *graph (2) is met.*

14 *“(4)(A) Amounts in the fund established under sub-*
15 *section (k)(2) shall be available for transfer under subpara-*
16 *graph (C) for purposes of carrying out this subsection.*

17 *“(B) Not later May 1 of each fiscal year, the Attorney*
18 *General, in consultation with the Secretary, shall submit*
19 *to the Congress a report providing an estimate of the*
20 *amount of claims (together with related fees and expenses*
21 *of witnesses) that, by reason of the acts or omissions of*
22 *health professional volunteers, will be paid pursuant to this*
23 *section during the calendar year that begins in the following*
24 *fiscal year. Subsection (k)(1)(B) applies to the estimate*
25 *under the preceding sentence regarding health professional*

1 *volunteers to the same extent and in the same manner as*
2 *such subsection applies to the estimate under such sub-*
3 *section regarding officers, governing board members, em-*
4 *ployees, and contractors of entities described in subsection*
5 *(g)(4).*

6 “(C) *Not later than December 31 of each fiscal year,*
7 *the Secretary shall transfer from the fund under subsection*
8 *(k)(2) to the appropriate accounts in the Treasury an*
9 *amount equal to the estimate made under subparagraph (B)*
10 *for the calendar year beginning in such fiscal year, subject*
11 *to the extent of amounts in the fund.*

12 “(5)(A) *This subsection takes effect on October 1, 2011,*
13 *except as provided in subparagraph (B).*

14 “(B) *Effective on the date of the enactment of this sub-*
15 *section—*

16 “(i) *the Secretary may issue regulations for car-*
17 *rying out this subsection, and the Secretary may ac-*
18 *cept and consider applications submitted pursuant to*
19 *paragraph (3)(B); and*

20 “(ii) *reports under paragraph (4)(B) may be*
21 *submitted to the Congress.”.*

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